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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,895	07/24/2001	GERALD ANTON OFNER	046-7001.30	3043

466 7590 03/22/2007  
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EXAMINER
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FINEMAN, LEE A

ART UNIT	PAPER NUMBER
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2872

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/889,895

Applicant(s)

OFNER, GERALD ANTON

Examiner

Lee Fineman

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 6-62, 64 and 65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 12, 14, 35, 37, 38, 41, 43-46, 49, 52, 56-59, 62, 64 and 65 is/are rejected.
- 7) ☒ Claim(s) 8-11, 13, 15-34, 36, 39, 40, 42, 47, 48, 50, 51, 53-55, 60 and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on See Continuation Sheet is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 February 2007 has been entered in which claims 1 and 65 were amended. Claims 1, 6-62, 64 and 65 are pending of which claims 6-61 were withdrawn.

***Election/Restrictions***

2. Claim 1 is allowable. The restriction requirement between species, as set forth in the Office action mailed on 21 October 2002, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.**

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See

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*In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

**3. *Ex parte Quayle***

4. This application is in condition for allowance except for the following formal matters set forth below.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

***Drawings***

5. Drawings were received on 12 February 2007. These drawings are acceptable.

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the holding device for optical vision devices (claims 50-51) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 20 includes the limitation "wherein inserted information can be selected by changing the viewing angle of the vision aid to the viewed object" which is not disclosed in the specification.

### *Claim Objections*

8. Claims 8-11, 13, 15-34, 36, 39-40, 42, 47-48, 50-51, 53-55 and 60-61 are objected to because of the following informalities:

Regarding claims 13, 15-20, 22-24, 27-34 and 40, the phrase "can be" is objected to because it is unclear whether the limitations following the phrase are part of the claimed invention.

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Regarding claims 15-17, 21-23, 47-48 and 50-51, the phrases "for example," "such as," or "or the like" is objected to because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claims 8-10 and 60-61, the limitation "lens system(s) (51,53)" is incorrect and should be --lens system(s) (51,52)--. Further regarding claims 8-10, the limitation "wherein the lens systems (51,53) are located in one tube (1) at a time" is unclear. The examiner suggests --wherein each of the lens systems (51,53) are is located in one tube (1) at a time--.

Regarding claim 11, the limitations "the tube (50)" and "the tubes (1)" lack antecedent basis.

Regarding claims 17 and 22-23, the limitation "an optical element" is unclear. Is it the same optical element as in the independent claim or a different one? Further regarding claim 22, it is unclear what the term "faithfully" implies. Does it mean it is always at the same position or it is always the same information? Finally, regarding claim 23, it is unclear whether the data in this limitation is the information to the display or different data.

Regarding claim 18, the limitation "the video or text insertions" lacks antecedent basis.

Regarding claim 19, the limitations "the images or text parts" and "the eye distance and parallax" lack antecedent basis.

Regarding claims 25-26, the limitation "the intermediate plane" lacks antecedent basis. Further, regarding claim 26, the limitation "the measurement scale of the focal length" lacks antecedent basis.

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Regarding claims 30 and 33-34, the limitation “a lens system” is unclear. Is it the same lens system as in the independent claim or a different one? Further, the limitation “the tubes” lacks antecedent basis.

Regarding claim 31, the limitation “the light source (19)” lacks antecedent basis. Further, the specification and drawings do not disclose a beam splitter or a prism reversal system as element 21.

Regarding claim 36, the limitation “an autofocussing means” is unclear. Is it the same autofocussing means as in the independent claim or a different one?

Regarding claims 39-40, the limitation “the laser means” lacks antecedent basis.

Regarding claim 42, the limitations “the forehead” and “the head” lack antecedent basis.

Regarding claims 53-55, the limitation “the receiving unit” lacks antecedent basis.

The dependent claims inherit the deficiencies of the claims from which they depend. Appropriate correction is required.

***Allowable Subject Matter***

9. Claims 1, 6-7, 12, 14, 35, 37-38, 41, 43-46, 49, 52, 56-59, 62 and 64-65 are allowed.

10. Claims 8-11, 13, 15-34, 36, 39-40, 42, 47-48, 50-51, 53-55 and 60-61 would be allowable if rewritten or amended to overcome the claim objections set forth in this Office action.

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11. The following is an examiner's statement of reasons for allowance:

Claims 1, 6-62, 64 and 65 are allowable over the prior art for at least the reason that the prior art fails to teach and/or suggest a vision aid including two lens systems with objectives, eyepieces, autofocussing means, means for changing magnification, optical elements and curved guides with "said curved guide being arranged so that as the distance of the telescopic spectacles from an object decreases there is a decrease in distance between respective optical elements of the lens systems" as set forth in the claimed combination.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LAF  
17 March 2007



MARK A. ROBINSON  
PRIMARY EXAMINER